

Rejection of Claims under 35 U.S.C. § 102

Claims 1-2, 4-5, 7, 9-11 stand rejected under 35 U.S.C. §102(b) as being anticipated by Grob et al. The Examiner states that Grob et al. discloses the claimed limitations of the cis and trans isomers. Applicants respectfully disagree.

The publication of Grob et al. discloses exclusively the production of cis-3,3,5-trimethylcyclohexyl formiate (substance 29c). No other cis-3,3,5-trimethylcyclohexyl ester is disclosed or suggested. The claims as amended specifically exclude cis-3,3,5-trimethyl-cyclohexyl formiate as part of the claimed cis and trans mixture.

As Grob et al. fails to disclose or suggest each and every element as recited in the independent claims, it cannot anticipate those claims. Thus, withdrawal of the 35 U.S.C. §102(b) rejections is respectfully requested.

Rejection of Claims under 35 U.S.C. § 103

Claims 1-2, 4-5, 7, and 9-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rhode et al. (hereinafter "Rhode") in view of Emura et al. (hereinafter "Emura"). As the Examiner acknowledged, Rhode fails to disclose the esters being either cis or trans as well as the ranges of at least 80% of the cis-esters and less than 20% of the trans-ester. However, the Examiner cites Emura for allegedly disclosing the use of high cis to trans ratio of "analogous perfuming materials."

With respect to Emura, it is directed specifically to 4-t-butylcyclohexanol acetate. Emura makes a general passing reference to a monograph by S. Arctander that allegedly details cis isomers having better fragrance qualities than trans isomers (col. 1, lines 20-26). Based on this,

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Emura concludes that 4-t-butylcyclohexanol acetate with an elevated cis content to be utilized in the perfume industry. However, Emura makes no reference to the claimed esters.

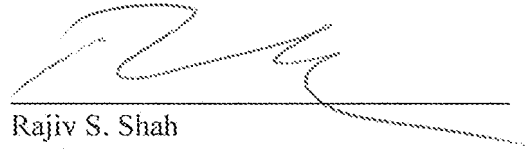
In citing the Emura reference, the Examiner states that “so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant’s disclosure, such a reconstruction is proper.” (OA at p. 11). However, one skilled in the art, based on the passing reference in Emura to S. Arctander’s monograph, would not expect all “perfuming material” to have similar properties. As the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. V. Teleflex Inc.*, published October 10, 2007 state, “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” The Examiner cannot provide conclusory statements without support for his legal conclusion of obviousness. In this case, the Examiner has not clearly articulated how one skilled in the art would view a passing reference to perfuming articles to render obvious the claimed esters and ratio. Emura in no way gives any details to allow one skilled in the art to apply its disclosure to the claimed esters. Seemingly, the Examiner ignores completely that Emura is directed specifically to 4-t-butylcyclohexanol. Without undergoing undue experimentation, one skilled in the art would not expect a passing reference in Emura to be applicable to every chemical compound or mixture.

Thus, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §103(a).

Prompt and favorable examination on the merits is requested.

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For the Applicants,

A handwritten signature in black ink, appearing to read 'Rajiv S. Shah', is written over a horizontal line.

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